Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 357 and 382

[Docket No. RM95–12–000]

Minimum Filing Requirements for FERC Form No. 6, Annual Report for Oil Pipelines

June 8, 1995.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission is proposing to revise the filing requirements for FERC Form No. 6, Annual Report of Oil Pipeline Companies, and to exempt certain oil pipeline companies with minimal jurisdictional revenues from paying annual charges. The proposed rule would exempt from filing Form No. 6 those pipelines whose jurisdictional operating revenues are at or below $100,000 for each of the three preceding calendar years. Those companies that will be exempt from filing Form No. 6 must nevertheless prepare and file page 700 of Form No. 6. The Commission also proposes to relieve those companies not required to file Form No. 6 from the obligation to pay annual charges to the Commission.

DATES: Comments are due on or before July 14, 1995.

ADDRESSES: An original and 14 copies of written comments on this proposed rule must be filed in Docket No. RM95–12–000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Harris S. Wood, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, Telephone: (202) 208–0224.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3104, 941 North Capitol Street, NE., Washington, DC 20426. The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400 or 1200 bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS for 60 days from the date of issuance in ASCII and WordPerfect 5.1 format. After 60 days the document will be archived, but still accessible.

The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

Notice of Proposed Rulemaking

The Federal Energy Regulatory Commission (Commission) proposes to revise the filing requirements for FERC Form No. 6, Annual Report of Oil Pipeline Companies (Form No. 6), and exempt certain oil pipeline companies with minimal jurisdictional revenues from the requirement for paying annual charges. These changes are proposed to become effective 30 days after the publication of a final rule in this proceeding in the **Federal Register**.

The Commission proposes to exempt from the requirements to prepare and file Form No. 6, those pipelines whose jurisdictional operating revenues are at or below $100,000 for each of the three preceding calendar years.[1] For the reasons appearing below, those companies that will be exempt from filing Form No. 6 must nevertheless prepare and file page 700 of Form No. 6.

The Commission also proposes to relieve those companies not required to file Form No. 6 from the obligation to pay annual charges to the Commission.

I. Background

Order No. 561 [2] was issued on October 22, 1993, to comply with the Energy Policy Act of 1992 (Act of 1992),[3] which required that the Commission establish a simplified and generally applicable method of oil pipeline rate regulation. Thereafter, on October 28, 1994, the Commission issued Order No. 571, which established certain filing requirements for oil pipelines seeking cost-of-service rate treatment and promulgated changes to Form No. 6.[4]

The Commission's regulations currently require each jurisdictional oil pipeline company to submit Form No. 6 annually, reflecting the operating results and the financial condition of the company involved, irrespective of the size of the company.[5]

II. Public Reporting Burden

The Commission estimates the public reporting burden for the collections of information under the proposed rule will be reduced for Form No. 6 by about 14 percent. These estimates include the time for reviewing instructions, researching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The current annual reporting burden associated with these information collection requirements is as follows:

Form No. 6: 22,572 hours, 148 responses, and 148 respondents.[6]

The proposed rule will reduce the existing reporting burden associated with Form No. 6 by an estimated 2,838 hours annually, or an average of 129 hours per response based on an

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[1] Notwithstanding the Commission's proposal to establish a threshold exemption from filing FERC Form No. 6, all jurisdictional oil pipelines will continue to be subject to the Commission's accounting and recordkeeping requirements (*e.g.*, 18 CFR Parts 351, 352, and 356).

[2] Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992, Order No. 561, III FERC Stats. & Regs. ¶ 30,985 (1993); Order on Rehearing, Order No. 561–A, III FERC Stats. & Regs. ¶ 31,000 (1994).

[3] 42 U.S.C. 7172 note (West Supp. 1993).

[4] Cost-of-Service Reporting and Filing Requirements for Oil Pipelines, III FERC Stats. & Regs. ¶ 31,006 (1994).

[5] 18 CFR 357.2.

[6] These numbers are based on an average of respondents expected to file Form No. 6. The number of respondents actually filing the Form No. 6 may vary slightly each year.

estimated 22 oil pipelines who will be exempt from the filing requirements of Form No. 6 but not from the filing requirements of page 700.

Comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing this burden, can be sent to the Federal Energy Regulatory Commission, 941 North Capitol Street, N.E., Washington, DC 20426 [Attention: Michael Miller, Information Services Division, (202) 208–1415]; and to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for Federal Energy Regulatory Commission), FAX: (202) 395–5167.

III. Discussion

A. Form No. 6

Form No. 6 provides the Commission with financial and operational data for the proper administration of the Commission's responsibilities for rate regulation of oil pipelines under the Interstate Commerce Act, as amended,[7] and the Act of 1992. In a like manner, the Commission requires the other entities it regulates to submit annual financial and operational data. However, the Commission has established minimum filing thresholds for submission of annual reports for both electric utilities and natural gas companies.[8] For example, a natural gas pipeline is only required to submit an annual report if its total gas sales or volumes transported exceeds 200,000 Mcf in each of the three previous calendar years. This has allowed the Commission to maintain data on the more significant pipelines and yet has allowed those whose operations are minimal to avoid the regulatory expense and burden of filing reports which would be of limited statistical importance to the Commission. The Commission here intends to provide the same type of relief from the annual filing burden and expense for oil pipelines with limited jurisdictional activity.

The Commission proposes to establish a filing threshold for Form No. 6 based on the annual jurisdictional operating revenues of an oil pipeline company. While the filing thresholds for electric utilities and natural gas companies are stated in volumes, the Commission believes that a volumetric threshold is not appropriate for oil pipelines.[9]

Analysis of the 146 oil pipelines that filed Form No. 6 for the 1993 reporting year indicates three natural breaks in jurisdictional operating revenues that could be used to establish a minimum filing threshold:

$100,000 level—22 oil pipelines, or 15 percent of the 1993 total, had jurisdictional operating revenues at or below this level.

$300,000 level—32 oil pipelines, or 22 percent of the 1993 total, had jurisdictional operating revenues at or below this level.

$1,000,000 level—38 oil pipelines, or 26 percent of the 1993 total, had jurisdictional operating revenues at or below this level.

The Commission proposes to establish the minimum reporting threshold for oil pipeline companies to file Form No. 6 at the $100,000 level of jurisdictional operating revenues. This level will exempt companies with minimal jurisdictional transactions from the burdens associated with preparation of the annual report, yet the Commission should continue to have statistically valid data for its use in oil pipeline rate regulation.

For both electric utilities and natural gas companies, the Commission's regulations require a company to look to its three immediately preceding reporting years to determine, *inter alia,* whether it is exempt from filing an annual report with the Commission.[10] If a regulated company had been exempt from reporting and exceeds the minimum filing threshold for each of the three immediately preceding calendar years, it would be required to file an annual report for the current reporting year. Thereafter, the company would be required to file an annual report until the level of its operations falls below the established threshold for the three immediately preceding calendar years, at which time it would again become exempt from the annual report requirement. This three-year approach was established to guard against anomalies in the operations of a regulated company and to provide some measure of stability in the annual reports, while not imposing an undue burden on companies which were clearly showing a pattern of operations below the established minimum thresholds.

The Commission proposes to require the same three-year test for oil pipelines to see if they meet the minimum exemption. That is, a pipeline will be exempt from preparing and filing FERC Form No. 6 if its jurisdictional operating revenues for the three calendar years immediately preceding the current reporting year were $100,000 or less per reporting year. For a newly established pipeline without three years of operations, the company, as is now required for electric utilities and natural gas companies, would use projected data to determine whether Form No. 6 needs to be filed.

Order No. 571 amended Form No. 6 by requiring, *inter alia*, that a new page 700 be incorporated into Form No. 6. This page requires an oil pipeline to report its total annual cost of service as calculated under the Opinion No. 154–B methodology,[11] its operating income, and its throughput in barrels and barrel-miles. This page is an integral part of the Commission's data collection efforts to ensure that the index prescribed by Order No. 561 properly tracks industry costs. Page 700 provides shippers with the necessary information to serve as a preliminary screening tool for pipeline rate filings. It is designed to enable shippers to compare proposed changes in rates against the change in the level of a pipeline's cost of service, to compare the change in a shipper's individual rate with the change in a pipeline's average company-wide barrel-mile rate, and to determine whether to challenge a pipeline's indexed rate increase filings. As such, page 700 provides the Commission and the public with information beyond the financial and accounting data found in the rest of Form No. 6. Because the information found on page 700 is not readily available elsewhere, the Commission proposes to require those pipelines that would be exempt from filing Form No. 6 to prepare and file page 700 at the time that other pipelines are required to

[7] 49 App. U.S.C. 1 (1988).

[8] For electric utilities and licensees, see 18 CFR 141.1 and 141.2 and General Instruction 1, Classification of Utilities of the Uniform System of Accounts Prescribed for Public Utilities and Licensees, 18 CFR Part 101.

For natural gas companies, see 18 CFR 260.1 and 260.2 and General Instruction 1, Classification of Utilities of the Uniform System of Accounts Prescribed for Natural Gas Companies, 18 CFR Part 201.

[9] In establishing annual charges for the companies it regulates, the Commission considered the use of a volumetric standard in setting annual charges for oil pipelines, but rejected such an approach. It found, for the reasons stated in that proceeding, that the operating revenue approach for setting annual fees would most fairly and equitably distribute the oil program cost. See Annual Charges Under the Omnibus Budget Reconciliation Act of 1986, FERC Stats. & Regs., Preambles (1986–1990) ¶ 30,746 (1987) at pp. 30,631–30,634. For the reasons stated in that proceeding, the Commission believes that jurisdictional operating revenues is the appropriate basis for exemption of filing Form No. 6.

[10] In the case of a newly established jurisdictional entity, the projected data of the company would be the basis for determining whether an annual report would be required for its first year of operations. See 18 CFR Parts 101 and 201, General Instruction 1, Classification of Utilities, paragraph C.

[11] The Opinion No. 154–B methodology is derived from the Commission's opinions in Williams Pipe Line Company, Opinion No. 154–B, 31 FERC ¶ 61,377 (1985), on rehearing, Opinion No. 154–C, Williams Pipeline Company, 33 FERC ¶ 61,327 (1985); and ARCO Pipe Line Company, Opinion No. 351, 52 FERC ¶ 61,055 (1990), on rehearing, Opinion No. 351–A, ARCO Pipe Line Company, 53 FERC ¶ 61,398 (1990).

file Form No. 6 (*i.e.*, on or before March 31st of each year for the previous calendar year).

B. Annual Charges

Annual charges are assessed on all jurisdictional companies who file annual reports with the Commission to assist in defraying the cost of regulation of those companies. For public utilities and natural gas companies, those companies who fall below the reporting thresholds for those industries are not required to file annual reports, and therefore they do not pay annual charges to the Commission. Currently, all oil pipelines reporting jurisdictional operating revenues in Form No. 6 are subject to annual charges.[12] The Commission proposes to provide the same type of relief from annual charges as it provides with respect to other entities it regulates, by exempting from the requirement to pay annual charges those oil pipelines whose annual jurisdictional revenues are at or below the $100,000 threshold.

Annual charges for oil pipelines are calculated on the basis of jurisdictional operating revenues. If an oil pipeline company has no jurisdictional operating revenues, it pays no annual charge. For the 1993 reporting year, 22 of the 146 oil pipeline companies filing Form No. 6 either had no jurisdictional operating revenues, or their jurisdictional operating revenues were under $100,000. The remaining 124 oil pipelines with jurisdictional operating revenues over $100,000 paid annual charges with the smallest annual charge amount being $132. If the proposed change in filing requirements for Form No. 6 had been in effect for that reporting year, 22 companies would have been exempted from paying annual charges. The total annual charges involved based on 1993 jurisdictional operating revenues would amount to $77 for those companies, a *de minimis* amount.

Based on the foregoing, the Commission proposes to require annual charges only of those oil pipelines that are required to file Form No. 6. This would be consistent with the treatment accorded public utilities and natural gas companies.

IV. Environmental Analysis

The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[13] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[14] The action proposed here is procedural in nature and therefore falls within the categorical exclusions provided in the Commission's regulations.[15] Therefore, neither an environmental impact statement nor an environmental assessment is necessary and will not be prepared in this rulemaking.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act[16] generally requires the Commission to describe the impact that a proposed rule would have on small entities or to certify that the rule will not have a significant economic impact on a substantial number of small entities. An analysis is not required if a proposed rule will not have such an impact.[17]

Pursuant to section 605(b), the Commission certifies that the proposed rules and amendments, if promulgated, will not have a significant adverse economic impact on a substantial number of small entities. Rather, the proposed rules will relieve small entities of the burden of preparing and filing annual reports and of paying annual charges to the Commission.

VI. Comment Procedures

Copies of this notice of proposed rulemaking can be obtained from the Office of Public Information, Room 3104, 941 North Capitol Street, N.E., Washington, D.C. 20426. Any person desiring to file comments should submit an original and fourteen (14) copies of such comments to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, not later than 30 days after the date of publication in the **Federal Register**.

The full text of this notice of proposed rulemaking also is available through the Commission Issuance Posting System (CIPS), an electronic bulletin board service, which provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, communications software should be set to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits, and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of this notice will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3104, 941 North Capitol Street, N.E., Washington, D.C. 20426.

VII. Information Collection Requirements

Office of Management and Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rules.[18] While these proposed rules and amendments contain no new information collection requirements, we expect the proposed rule will revise and reduce the reporting requirements under existing Form No. 6.

The Commission uses the data collected under Form No. 6 to monitor the financial and operating data of oil pipeline companies subject to its jurisdiction, and to assist in determining the reasonableness of rates.

Because of the proposed revisions and expected reduction in public reporting burden under Form No. 6, the Commission is submitting a copy of the proposed rule to OMB for its review and approval. Interested persons may obtain information on these reporting requirements by contacting the Federal Energy Regulatory Commission, 941 North Capitol Street NE, Washington, D.C. 20426 (Attention: Michael Miller), Information Policy and Standards Branch, (202) 208–1415, FAX (202) 208–2425; and to the Office of Information and Regulatory Affairs, Office of Management and Budget (Attention: Desk Officer for Federal Energy Regulatory Commission), Washington, D.C. 20503.

List of Subjects

18 CFR Part 357

Pipelines, Reporting and recordkeeping requirements, Uniform System of Accounts.

18 CFR Part 382

Annual Charges.

By direction of the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission gives notice of its proposal to amend Parts 357 and 382, Chapter I,

[12] However, on a case by case basis, certain oil pipelines have been granted waiver of the Form 6 filing requirements.

[13] Order No. 486, Regulations Implementing the National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Statutes and Regulations, Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[14] 18 CFR 380.4.

[15] See 18 CFR 380.4(a)(2)(ii).

[16] 5 U.S.C. 601–612.

[17] 5 U.S.C. 605(b).

[18] 5 CFR 1320.13.

Title 18, Code of Federal Regulations, as set forth below.

PART 357—ANNUAL SPECIAL OR PERIODIC REPORTS: CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT

1. The authority citation for Part 357 is revised to read as follows:

Authority: 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

2. Section 357.2 is revised to read as follows:

§ 357.2 FERC Form No. 6, Annual Report of Oil Pipeline Companies.

Each pipeline carrier subject to the provisions of section 20 of the Interstate Commerce Act whose annual jurisdictional operating revenues has been more than $100,000 for each of the three previous calendar years must prepare and file with the Commission copies of FERC Form No. 6, ''Annual Report of Oil Pipeline Companies,'' pursuant to the General Instructions set out in that form. This report must be filed on or before March 31st of each year for the previous calendar year. Newly established entities must use projected data to determine whether FERC Form No. 6 must be filed. One copy of the report must be retained by the respondent in its files. The conformed copies may be produced by any legible means of reproduction. Notwithstanding the exemption provided above, those carriers exempt from filing Form No. 6 must prepare and file page 700 of FERC Form No. 6 on or before March 31st of each year for the previous calendar year, beginning with the year ending December 31, 1995, including the subscription required by § 385.2005(a) of this chapter.

PART 382—ANNUAL CHARGES

1. The authority citation for Part 382 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w; 3301–3432; 16 U.S.C. 791a-825r, 2601–2645; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

2. Section 382.102(c) is revised to read as follows:

§ 382.102 Definitions.

* * * * *

(c) *Oil pipeline company* means any person engaged in the transportation of crude oil and petroleum products subject to the Commission's jurisdiction under the Interstate Commerce Act with annual operating revenues greater than $100,000 in any of the three calendar years immediately preceding the fiscal year for which the Commission is assessing annual charges.

* * * * *

[FR Doc. 95–14532 Filed 6–13–95; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

Wyoming Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Wyoming regulatory program (hereinafter, the ''Wyoming program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Wyoming Environmental Quality Act pertaining to procedures for providing public notice for coal mining permit applications. The amendment is intended to reduce costs to the Wyoming program and retain consistency with the corresponding Federal regulations and SMCRA.

DATES: Written comments must be received by 4:00 p.m., m.d.t., July 14, 1995. If requested, a public hearing on the proposed amendment will be held on July 10, 1995. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t., on June 29, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Guy V. Padgett, Casper Field Office Director at the address listed below.

Copies of the Wyoming program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building, Rm. 2128, 100 East ''B'' Street, Casper, Wyoming 82601–1918

Dennis Hemmer, Director, Department of Environmental Quality, Herschler Building—4th Floor West, 125 West 25th Street, Cheyenne, Wyoming 82002, Telephone: (307) 777–7938

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–5824.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

On November 26, 1980, the Secretary of the Interior conditionally approved the Wyoming program. General background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Wyoming program can be found in the November 26, 1980, **Federal Register** (45 FR 78637). Subsequent actions concerning Wyoming's program and program amendments can be found at 30 CFR 950.11, 950.12, 950.15 and 950.16.

II. Proposed Amendment

By letter dated June 2, 1995, Wyoming submitted a proposed amendment to its program pursuant to SMCRA (revision to the public notice procedures, Administrative Record No. WY–30–01). Wyoming submitted the proposed amendment at its own initiative. The provision of Environmental Quality Act that Wyoming proposes to revise is section Wyoming Statute (W.S.) 35–11–406(j) [public notice procedures for permit applications].

Specifically, Wyoming proposes to revise subsection (j) as follows: (1) By adding to the beginning of the third sentence ''[f]or initial applications or additions of new lands * * *;'' (2) by removing from the end of the third sentence the language ''* * * and to the operator of any oil and gas well within the permit area or, if there is no oil and gas well, to the lessee of record of any oil and gas lease within the permit area * * *; (3) by adding, prior to the last sentence, the sentence ''[t]he applicant shall mail a copy of the application mining plan map within five (5) days after first publication to the Wyoming oil and gas commission;'' and (4) by adding to the last sentence the language ''* * * sworn statement of * * *.''

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Wyoming program.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in